

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	:	Before the Examiner:
Challener et al.	:	Abrishamkar, Kaveh
	:	
Serial No.: 09/758,927	:	Group Art Unit: 2131
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Filing Date: January 11, 2001	:	
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Title: INTERNET APPLIANCE	:	IBM Corporation
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REPLY BRIEF UNDER 37 C.F.R. §41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is being submitted in response to the Examiner's Answer dated June 28, 2006, with a two-month statutory period for response set to expire on August 28, 2006.

I. RESPONSE TO EXAMINER'S ARGUMENTS

A. Response to Examiner's motivation for modifying Voit to include the missing claim limitation of claim 3, as discussed on page 24 of Examiner's Answer.

The Examiner had previously not provided the source of motivation for modifying Voit to include the limitation of "using a security protocol for encrypting and decrypting information transmitted on said communication link in response to authorizing said dialing action for said communication link" as recited in claim 3. See Appellants' Second Appeal Brief, page 12. The Examiner's motivation for modifying Voit with Rao to include this limitation is in order "to achieve a secure and encrypted communication line between two parties." Office Action (1/30/2006), page 4. As understood by Appellants, the Examiner cites column 9, lines 40-45 of Voit as the source of the Examiner's motivation. Examiner's Answer, pages 24 and 28. The Examiner's motivation is insufficient to establish a *prima facie* case of obviousness.

Most if not all inventions arise from a combination of old elements. *See In re Rouffet*, 47 U.S.P.Q.2d 1453, 1457 (Fed. Cir. 1998). Obviousness is determined from the vantage point of a hypothetical person having ordinary skill in the art to which the patent pertains. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1457 (Fed. Cir. 1998). Therefore, an Examiner may often find every element of a claimed invention in the prior art. *Id.* However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. *See Id.* In order to establish a *prima facie* case of obviousness, the Examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1998). That is, the Examiner must provide some suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some case, the nature of the problem to be solved, to modify the reference or to combine reference teachings. *See In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). Whether the Examiner relies on an express or an

implicit showing, the Examiner must provide particular findings related thereto. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000).

The Examiner's motivation ("to achieve a secure and encrypted communication line between two parties") does not provide reasons, as discussed further below, that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would modify Voit to include the claim limitation of claim 3. Accordingly, the Examiner has not presented a *prima facie* case of obviousness for rejecting claim 3. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1998).

As stated above, the Examiner's motivation for modifying Voit to include the above-cited claim limitation is "to achieve a secure and encrypted communication line between two parties" citing column 9, lines 40-45 of Voit as support for the Examiner's motivation. Column 9, lines 40-45 of Voit teaches that the communication through the C3.14 interface is preferably encrypted and secure. The Examiner has not explained how the teaching of having communication through the C3.14 interface to be encrypted and secure provides reasons for modifying Voit, which teaches having voice over the Internet being subject to toll quality service (column 4, lines 32-53), to use a security protocol for encrypting and decrypting information transmitted on the communication link in response to authorizing the dialing action for the communication link (missing claim limitation). Hence, the Examiner's motivation does not provide reasons as to why one skilled in the art would modify Voit to include the missing claim limitation of claim 3. Accordingly, the Examiner has not presented a *prima facie* case of obviousness for rejecting claim 3. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1998).

- B. Response to Examiner's assertion that Voit and Rao, taken in combination, teach "wherein said PIM is used to grant or block access to certain area of country telephony codes" as recited in claim 5, as discussed on pages 24-25 of Examiner's Answer.

The Examiner states:

Voit states that a called number is passed to the C2 object along with a user name and password (personal identification means) (column 17 lines 60-64). Then an authorization request is placed using the user identification, which then determines if the call can be placed based on the account status of the user and the cost of the call (column 17 line 66 – column 18 line 5). The cost of a call is well-known to be based on the location of the receiver with respect to the caller (area code) and the fact that the user is authorized based on the cost which is related to the area code, then the Examiner contends that blocking access based on the cost is also blocking access based on the destination area code. Examiner's Answer, pages 24-25.

Appellants respectfully assert that under the Examiner's interpretation of Voit, a caller could still make a call but the duration of time of the call may be limited due to the cost of the call. Hence, Voit does not teach blocking the call. Instead, Voit teaches limiting the duration of the call due to the cost. In fact, Voit specifically teaches setting a limit on the duration of the call. Column 18, line 3. Hence, Voit does not teach blocking the call as asserted by the Examiner. Neither does Voit teach using a PIM to grant or block access to certain area of country telephony codes. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 5, since the Examiner is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

C. Response to Examiner's assertion that Voit and Rao, taken in combination, teach "matching said communication access number with an actual system entered communication access number" as recited in claim 6, as discussed on page 25 of Examiner's Answer.

The Examiner had previously cited column 7, lines 39-58; column 12, line 64 – column 13, line 20 and column 19, lines 22-27 of Voit as teaching "matching said communication access number with an actual system entered communication access number" as recited in claim 6. Office Action (1/30/2006), page 6. The Examiner now cites column 18, lines 35-40 of Voit as teaching the above-cited claim limitation. Examiner's Answer, page 25. Appellants respectfully traverse and assert that Voit instead teaches that the user initiates a call via the PC's V/IP software. Column 18, line 36. Voit further teaches that this software application invokes the directory to

obtain the IP address of the destination ITG. Column 18, lines 36-38. Hence, Voit teaches obtaining the IP address of the destination ITG. There is no language in the cited passage that teaches matching a communication access number with an actual system entered communication access number. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 6, since the Examiner is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Further, the Examiner appears to be asserting that the IP address of the destination ITG is the same as an actual system entered communication access number. The Examiner must provide a basis in fact and/or technical reasoning to support the assertion that the IP address of the destination ITG, as taught in Voit, is the same as an actual system entered communication access number. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that the IP address of the destination ITG, as taught in Voit, is the same as an actual system entered communication access number, and that it would be so recognized by persons of ordinary skill. *See In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claim 6. M.P.E.P. §2143.

D. Response to Examiner's assertion that Voit and Rao, taken in combination, teach "monitoring an incoming call for a caller ID" as recited in claim 7, as discussed on page 25 of Examiner's Answer.

The Examiner had previously cited Figure 7 and column 17, lines 22-31 of Voit as teaching "monitoring an incoming call for a caller ID" as recited in claim 7. Office Action (1/30/2006), page 6. The Examiner now cites column 17, lines 48-50 of Voit as teaching the above-cited claim limitation. Examiner's Answer, page 25. Appellants respectfully traverse and assert that Voit instead teaches that during the call, the call's completion status will be presented in real-time to the user by the application (via a visual display). Column 17, lines 50-52. Displaying the call's

completion status is not the same as monitoring an incoming call. Neither is there any language in the cited passage that teaches monitoring an incoming call for a caller ID. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 7, since the Examiner is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

- E. Response to Examiner's assertion that Voit and Rao, taken in combination, teach "answering and routing said incoming call to a receiving device on the basis of said incoming telephone number" as recited in claim 7, as discussed on page 26 of Examiner's Answer.

The Examiner had previously cited Figure 7 and column 17, lines 22-31 of Voit as teaching "answering and routing said incoming call to a receiving device" as recited in claim 7. Office Action (1/30/2006), page 6. The Examiner now cites column 18, lines 36-39 of Voit as teaching the above-cited claim limitation. Examiner's Answer, page 26. Appellants respectfully traverse and assert that Voit instead teaches that the user initiates a call via the PC's V/IP software. Column 18, line 36. Voit further teaches that this software application invokes the directory to obtain the IP address of the destination ITG. Column 18, lines 36-38. Hence, Voit teaches obtaining the IP address of the destination ITG. There is no language in the cited passage that teaches answering an incoming call. Neither is there any language in the cited passage that teaches routing an incoming call. Neither is there any language in the cited passage that teaches answering and routing an incoming call to a receiving device on the basis of the incoming telephone number. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 7, since the Examiner is relying upon incorrect, factual predicates in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

- F. Response to Examiner's assertion that Voit and Rao, taken in combination, teach "using a built-in key escrow function to notify a trusted server of a current dynamic host configuration protocol (DHCP) assigned IP address along with a key indicating authenticity of transmission so that voice over IP services between devices and a web page server lookup may be performed in a DHCP environment without side-channel communication for call or web reference look-

up" as recited in claim 8 and similarly in claims 24 and 41, as discussed on pages 26-27 and 33 of Examiner's Answer.

The Examiner essentially asserts that Voit teaches the use of a DHCP without providing any evidence. Examiner's Answer, pages 26 and 33. This is unacceptable evidence. The Examiner must provide objective evidence and not rely upon his own subjective opinion to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, as understood by Appellants, the Examiner cites Figure 1B of Voit as teaching "using a built-in key escrow function to notify a trusted server of a current dynamic host configuration protocol (DHCP) assigned IP address along with a key indicating authenticity of transmission so that voice over IP services between devices and a web page server lookup may be performed in a DHCP environment without side-channel communication for call or web reference look-up" as recited in claim 8 and similarly in claims 24 and 41. Appellants respectfully traverse. There is no language in the description of Figure 1B of Voit that teaches using a built-in key escrow function. Neither is there any language in the description of Figure 1B of Voit that teaches using a built-in key escrow function to notify a trusted server of a current dynamic host configuration protocol (DHCP) assigned IP address. Neither is there any language in the description of Figure 1B of Voit that teaches using a built-in key escrow function to notify a trusted server of a current dynamic host configuration protocol (DHCP) assigned IP address along with a key indicating authenticity of transmission. Neither is there any language in the description of Figure 1B of Voit that teaches using a built-in key escrow function to notify a trusted server of a current dynamic host configuration protocol (DHCP) assigned IP address along with a key indicating authenticity of transmission so that voice over IP services between devices and a web page server lookup may be performed in a DHCP environment without side-channel communication for call or web reference look-up. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 8,

25 and 41, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Further, as understood by Appellants, the Examiner cites column 4, lines 19-41 of Rao as teaching the above-cited claim limitation. Examiner's Answer, page 27. Appellants respectfully traverse and assert that Rao instead teaches that under the present invention, H.323 gateways perform a secure registration process in which they exchange information among themselves or with a translation server associated with the IP network. Column 4, lines 19-22. There is no language in the cited passage that teaches using a built-in key escrow function. Neither is there any language in the cited passage that teaches using a built-in key escrow function to notify a trusted server of a current dynamic host configuration protocol (DHCP) assigned IP address. Neither is there any language in the cited passage that teaches using a built-in key escrow function to notify a trusted server of a current dynamic host configuration protocol (DHCP) assigned IP address along with a key indicating authenticity of transmission. Neither is there any language in the cited passage that teaches using a built-in key escrow function to notify a trusted server of a current dynamic host configuration protocol (DHCP) assigned IP address along with a key indicating authenticity of transmission so that voice over IP services between devices and a web page server lookup may be performed in a DHCP environment without side-channel communication for call or web reference look-up. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 8, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

- G. Response to Examiner's assertion that Voit and Rao, taken in combination, teach "wherein activating said selected communication access number comprises selecting said communication access number from a displayed Internet web page hot spot" as recited in claim 9, as discussed on page 27 of Examiner's Answer.

The Examiner has previously cited column 17, lines 41-44 of Voit as teaching "wherein activating said selected communication access number comprises selecting

said communication access number from a displayed Internet web page hot spot" as recited in claim 9. Office Action (1/30/2006), page 7. The Examiner now cites column 17, lines 39-47 of Voit as teaching the above-cited claim limitation. Examiner's Answer, page 27. Appellants respectfully traverse and assert that Voit instead teaches that the customer will launch their V/IP application, either as a plug-in to an existing browser or as a stand-alone application. Column 17, lines 41-43. There is no language in the cited passage that teaches selecting a communication access number from a displayed Internet web page hot spot. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 9, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Further, the Examiner must provide a basis in fact and/or technical reasoning to support the assertion that column 17, lines 39-47 of Voit can be construed as teaching wherein activating the selected communication access number comprises selecting the communication access number from a displayed Internet web page hot spot. See *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that column 17, lines 39-47 of Voit can be construed as teaching wherein activating the selected communication access number comprises selecting the communication access number from a displayed Internet web page hot spot, and that it would be so recognized by persons of ordinary skill. See *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claim 9. M.P.E.P. §2143.

- H. Response to Examiner's assertion that Voit and Rao, taken in combination, teach "wherein said communication access number is selected using an actual or virtual keypad of said Internet appliance" as recited in claim 10, as discussed on pages 27-28 of Examiner's Answer.

The Examiner previously cited column 9, lines 44-55; column 13, lines 14-51; column 17, lines 62-65 and column 19, lines 20-26 of Voit as teaching "wherein said communication access number is selected using an actual or virtual keypad of said Internet appliance" as recited in claim 10. Office Action (1/30/2006), page 7. The Examiner now cites column 17, lines 39-46 of Voit as teaching the above-cited claim limitation. Examiner's Answer, page 27. Appellants respectfully traverse and assert that Voit instead teaches that the customer will launch their V/IP application, either as a plug-in to an existing browser or as a stand-alone application. Column 17, lines 41-43. There is no language in the cited passage that teaches selecting a communication access number using an actual or virtual keypad. Neither is there any language in the cited passages that teaches selecting a communication access number using an actual or virtual keypad of an Internet appliance. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 10, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Further, the Examiner must provide a basis in fact and/or technical reasoning to support the assertion that column 17, lines 39-47 of Voit can be construed as teaching wherein the communication access number is selected using an actual or virtual keypad of the Internet appliance. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that column 17, lines 39-47 of Voit can be construed as teaching wherein the communication access number is selected using an actual or virtual keypad of the Internet appliance, and that it would be so recognized by persons of ordinary skill. *See In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claim 10. M.P.E.P. §2143.

- I. Response to Examiner's assertion that Voit and Stewart, taken in combination, teach "wherein said user is given an option of communicating on an established communication link in response to

an authorized and enabled dialing action using said security protocol" as recited in claim 24 and similarly in claim 40, as discussed on page 32 of Examiner's Answer.

The Examiner had previously cited column 18, lines 9-33 of Voit as teaching "wherein said user is given an option of communicating on an established communication link in response to an authorized and enabled dialing action using said security protocol" as recited in claim 24 and similarly in claim 40. Office Action (1/30/2006), page 14. The Examiner now cites column 13, lines 18-23 and 26-31 of Voit as teaching the above-cited claim limitation. Examiner's Answer, page 32. Appellants respectfully traverse and assert that Voit instead teaches that the C2 object is able to signal various states of a connection (ringing, busy, etc.) to a PC user. Column 13, lines 21-22. Voit further teaches that the C2 object may require a user ID and password to be provided by the PC client software prior to completing a V/IP call. Column 13, lines 29-31. The user of the PC is not, however, provided an option of communicating on an established communication link in response to an authorized and enabled dialing action. Neither is the user of the PC provided an option of communicating on an established communication link in response to an authorized and enabled dialing action using a security protocol. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 24 and 40, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

- J. Response to Examiner's assertion that Voit and Stewart, taken in combination, teach "wherein said user is alerted of said dialing action whether said dialing action was initiated locally or remote by another user" as recited in claim 28 and similarly in claim 44, as discussed on pages 34-35 of Examiner's Answer.

The Examiner had previously cited column 9, lines 56-67; column 13, lines 21-64 and column 18, lines 8-12 of Voit as teaching "wherein said user is alerted of said dialing action whether said dialing action was initiated locally or remote by another user" as recited in claim 28 and similarly in claim 44. Office Action (1/30/2006), page 15. The Examiner now cites column 13, lines 18-23 and 26-31 of

Voit as teaching the above-cited claim limitation. Examiner's Answer, page 34. Appellants respectfully traverse and assert that Voit instead teaches that the C2 object is able to signal various states of a connection (ringing, busy, etc.) to a PC user. Column 13, lines 21-22. Voit further teaches that the C2 object may require a user ID and password to be provided by the PC client software prior to completing a V/IP call. Column 13, lines 29-31. There is no language in the cited passages that teaches that the user is alerted of a dialing action initiated locally or remotely by another user. Instead, the user is notified of establishing a connection after authorization was successful. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 28 and 44, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

- K. Response to Examiner's assertion that Voit and Stewart, taken in combination, teach "wherein DAC monitors incoming communication access numbers and directs communication to a answering or recording device or forwards the communication to another communication link in response to comparing said incoming communication access numbers to a predetermined, stored communication access numbers list" as recited in claim 29 and similarly in claim 45, as discussed on page 35 of Examiner's Answer.

The Examiner has previously cited column 7, lines 39-58; column 12, line 64 – column 13, line 20 and column 19, lines 22-27 of Voit as teaching "wherein DAC monitors incoming communication access numbers and directs communication to a answering or recording device or forwards the communication to another communication link in response to comparing said incoming communication access numbers to a predetermined, stored communication access numbers list" as recited in claim 29 and similarly in claim 45. Office Action (1/30/2006), page 15. The Examiner now cites column 18, lines 36-39 of Voit as teaching the above-cited claim limitation. Examiner's Answer, page 35. Appellants respectfully traverse and assert that Voit instead teaches that the user initiates a call via the PC's V/IP software. Column 18, line 36. Voit further teaches that this software application invokes the

Directory to obtain the IP address of the destination ITG. Column 18, lines 36-38. There is no language in the cited passage that teaches monitoring incoming communication access numbers and directing communication to an answering or recording device. Neither is there any language in the cited passage that teaches monitoring incoming communication access numbers and forwarding the communication to another communication link in response to comparing the incoming communication access numbers to a predetermined, stored communication access numbers list. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 29 and 45, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

- L. Response to Examiner's assertion that Voit, Rao and Stewart, taken in combination, teach "prompting said user to enter a user personal identification means (PIM) in response to selecting said communication access number" as recited in claim 2, as discussed on page 36 of Examiner's Answer.

The Examiner had previously cited column 9, lines 44-55; column 13, lines 14-51; column 17, lines 62-65 and column 19, lines 20-26 of Voit as teaching "prompting said user to enter a user personal identification means (PIM) in response to selecting said communication access number" as recited in claim 2. Office Action (1/30/2006), page 20. The Examiner now cites column 13, lines 39-42 of Voit as teaching the above-cited claim limitation. Examiner's Answer, page 36. Appellants respectfully traverse and assert that Voit instead teaches that the data associated with a user subscriber account is typically stored in an instance of C3 which is local to the user subscriber. Column 13, lines 40-42. There is no language in the cited passage that teaches prompting a user to enter a user identification means. Neither is there any language in the cited passage that teaches prompting a user to enter a user identification means in response to selecting a communication access number. Therefore, the Examiner has not presented a *prima facie* case of obviousness in

rejecting claim 2, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

- M. Response to Examiner's assertion that Voit, Rao and Stewart, taken in combination, teach "initiating a pre-determined security protocol to retrieve a corresponding secure PIM for comparison" as recited in claim 2, as discussed on pages 36-37 of Examiner's Answer.

The Examiner had previously cited column 9, lines 38-55 of Voit as teaching "initiating a pre-determined security protocol to retrieve a corresponding secure PIM for comparison" as recited in claim 2. Office Action (1/30/2006), page 20. The Examiner now cites column 13, lines 39-42 of Voit as teaching the above-cited claim limitation. Examiner's Answer, page 36. Appellants respectfully traverse and assert that Voit instead teaches that the data associated with a user subscriber account is typically stored in an instance of C3 which is local to the user subscriber. Column 13, lines 40-42. There is no language in the cited passage that teaches initiating a pre-determined security protocol. Neither is there any language in the cited passage that teaches initiating a pre-determined security protocol to retrieve a corresponding secure personal identification means for comparison. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 2, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

- N. Response to Examiner's assertion that Voit, Stewart and Gullman, taken in combination, teach "wherein said authorization unit comprises: a smart card reader; a biometric input unit; a personal identification number input unit; and a voice recognition input unit" as recited in claim 15 and similarly in claim 31, as discussed on page 39 of Examiner's Answer.

The Examiner had previously cited the Abstract of Gullman as teaching a smart card reader. Office Action (1/30/2006), page 22. The Examiner now cites column 5, lines 34-39 and 49-54 of Gullman as teaching a smart card reader. Examiner's Answer, page 39. Appellants respectfully traverse and assert that Gullman instead teaches a card 14' that serves as a convenient accessible security device kept

in the possession of a person seeking access to the host system. Column 5, lines 35-37. Gullman further teaches that the card may be the length, width and thickness of a conventional credit card. Column 5, lines 38-39. Gullman further teaches that for the card embodiment 14', the sensor 18 may be a scanning device which detects a fingerprint or pressure sensing device which detects a signature. Column 5, lines 49-51. Hence, Gullman teaches that card embodiment 14' is a security device and not a smart card reader. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 15 and 31, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

O. Response to Examiner's motivation for modifying Voit to include the missing limitations of claims 15 and 31, as discussed on pages 39-40 of Examiner's Answer.

As stated above, in order to establish a *prima facie* case of obviousness, the Examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1998). That is, the Examiner must provide some suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some case, the nature of the problem to be solved, to modify the reference or to combine reference teachings. See *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). Whether the Examiner relies on an express or an implicit showing, the Examiner must provide particular findings related thereto. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000).

The Examiner admits that Voit does not teach "wherein said authorization unit comprises: a smart card reader; a biometric input unit; a personal identification number input unit; and a voice recognition input unit" as recited in claim 15 and similarly in claim 31. Examiner's Answer, pages 39-40. The Examiner's motivation

for modifying Voit with Gullman to include the above-cited claim limitation is "to add[s] another level of security to the access process (column 3, lines 34-36)." Examiner's Answer, page 40. The Examiner's motivation is insufficient to support a *prima facie* case of obviousness for at least the reasons stated below.

The Examiner's motivation does not provide reasons, as discussed further below, that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would modify Voit to include the above-cited missing claim limitation from claims 15 and 31. Accordingly, the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 15 and 31. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1998).

Voit addresses the problem of voice over the Internet implementations being subject to best-effort quality of service instead of "toll quality" service. Column 4, lines 32-53. The Examiner has not provided any reasons as to why one skilled in the art would modify Voit, which overcomes the above-mentioned problems by having voice over the Internet being subject to toll quality service, to include an authorization unit that comprises: a smart card reader; a biometric input unit; a personal identification number input unit; and a voice recognition input unit (Examiner admits that Voit does not teach this limitation). As stated above, the Examiner's motivation is to add[s] another level of security to the access process (source of Examiner's motivation is column 3, lines 34-36 of Gullman). This does not provide reasons as to why one skilled in the art would modify Voit, whose purpose is to implement voice over the Internet being subject to toll quality service, to include an authorization unit that comprises: a smart card reader; a biometric input unit; a personal identification number input unit; and a voice recognition input unit. Hence, the Examiner's motivation does not provide reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would modify Voit to include the missing claim limitations of claims 15 and 31. Accordingly, the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 15 and 31. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1998).

P. Other matters raised by the Examiner.

All other matters raised by the Examiner have been adequately addressed above and in Appellants' Second Appeal Brief and therefore will not be addressed herein for the sake of brevity.

II. CONCLUSION

For the reasons stated above and in Appellants' Second Appeal Brief, Appellants respectfully assert that the rejections of claims 2-45 are in error. Appellants respectfully request reversal of the rejections and allowance of claims 2-45.

Respectfully submitted,

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